

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

TOD KEVIN HOUTHOOFD,
Plaintiff,

v.

Case No: 05-10003-BC
Honorable David M. Lawson

MICHAEL VANHORN, DOUGLAS HUNT, and
JAMES MOORE,

Defendants,

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND DENYING DEFENDANTS' MOTION TO DISMISS**

This matter is before the Court on the defendants' motion to dismiss. The motion was referred to United States Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1. The magistrate judge issued his report on September 1, 2005, recommending that this Court deny the defendants' motion. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed.

The defendants' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the Magistrate Judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt

22] is **ADOPTED**, and the defendants' motion to dismiss [dkt # 20] is **DENIED**.

It is further **ORDERED** that the parties appear for a Case Management and Scheduling Conference on **Tuesday, October 18, 2005 at 2:00 p.m.**

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 20, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 20, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS